IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 11818 of 2005

Between:

M.Nageshwara Rao, S/o. Sri Sahadevudu,
R/o. Chinna Ogirala(v), Vuyyuru Mandal,
Krishna District.

..... PETITIONER

AND

1 The Joint collector,
Machilipatnam, Krishna District
2 The Revenue Divisional Officer,
Nuziveedu, Krishna District
3 Smt.Gaddam Padma, W/o. Sri Venkanna,
R/o. Chinna Ogirala (v), Vuyyuru Mandal, Krishna District

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of Mandamus, or any other appropriate writ order or direction, declaring the Order Dt.8.5.2005 vide proceedings No.B1/SRA/30/2004 of the first Respondent as illegal, arbitrary and set side the same and further direct the first and second respondents to continue the petitioner as fair Price Shop Dealer.

Counsel for the Petitioner: Mr. C.RAGHU

Counsel for the Respondent Nos.1 &2: GP FOR CIVIL SUPPLIES

Counsel for the Respondent No.3 : None appeared.

The Court, at the stage of admission, made the following :

ORDER:

This Writ Petition is filed assailing the order of the 1st respondent, dated 08-05-2005, whereby the notification inviting applications for authorization for a fair price shop of

Chinna Ogirala village, Vuyyuru mandal, Krishna District has been cancelled on the ground that the notification fails to mention the category for which the shop is reserved in terms of the reservation policy issued by the Government of A.P. in G.O.Ms.No.53 dated 06-10-2004. As a consequence, the authorization issued in favour of the petitioner stood nullified.

2. The 2nd respondent issued a notification on 07-09-2004 for making selections for issuance of authorization for running a fair price shop in Chinna Vogirala village. The notification did not mention the category for which the shop is reserved in accordance with the aforesaid reservation policy of the State. Responding the notification, six applications were filed including that of the petitioner. Eventually, by orders of the 2nd respondent, dated
26-10-2004, the petitioner was selected and appointed as a fair price shop dealer. An authorization letter was also issued to him for the said purpose. While so, the 3rd respondent, who was one of the applicants, preferred an appeal before the 1st respondent contending that the notification is illegal. The petitioner contends that he belongs to the Schedule Caste and therefore there was no justification for the impugned order cancelling the notification even if it failed to mention the reservation category for which, the shop should have been reserved. This contention is without merit. As per the Government policy of reservations set out in G.O.Ms.No.53 dated 06-10-2004 in appointing dealer to fair price shops, reservation should be accorded to Schedule castes, Scheduled tribes, physically handicapped and Backward classes. Reservation is also provided to women to an extent of 30% and also to widows of Ex-servicemen. In the circumstances, the mere fact that the petitioner belongs to the Schedule Caste would not automatically entitle him for appointment if on applying the reservation policy, the fair price shop of Chinna Vogirala village should have been reserved in favour of categories other than the Schedule Castes, such as Schedule Tribes and Backward classes, or if it were to be reserved in favour of the physically handicapped or women.

3. The 1st respondent legitimately went into the question as to the validity of the notification and on a rational conclusion that the notification is invalid on account of failing to mention the reservation category, the 1st respondent set aside the

notification and consequently, the appointment of the petitioner was set aside. The impugned order suffers from no infirmities warranting interference. There are no merits in the Writ Petition.

4. Accordingly, the Writ Petition is dismissed.

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(GODA RAGHURAM,J)

9th June, 2005.

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To

1 The Joint collector,
Machilipatnam, Krishna District

2 The Revenue Divisional Officer,
Nuziveedu, Krishna District

3 Two CCs to the GP for Civil Supplies,

High Court of A.P., Hyderabad (O.U.T.)

4 Two CD copies